

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WYKANUSH VENTURES LLC, *et al.*,

Plaintiffs,

v.

KARSTAN WALKER, *et al.*,

Defendants.

Case No. C21-5710-DGE-MLP

ORDER TO SHOW CAUSE

On September 24, 2021, Plaintiffs Wykanush Ventures LLC and TCAIXP LLC (“Plaintiffs”) filed a complaint in this action seeking damages for conversion, fraud, breach of contract, breach of fiduciary duty, and unjust enrichment. (Dkt. # 1.) On October 12, 2021, Plaintiffs filed affidavits stating two defendants, Karstan Walker and Kristopher Walker, had been served on October 2, 2021. (Dkt. ## 6-7.) Plaintiffs have not filed proof of service on the third defendant, Ronald Yauchzee. On December 9, 2021, Plaintiffs filed a Notice of Intent to Seek Entry of Default against Karstan Walker and Kristopher Walker “fourteen days after service of this notice.” (“Notice” (dkt. # 9).) Plaintiffs have not sought default nor filed proof that service of the Notice has occurred.

1 It is within the inherent power and discretion of the court to dismiss a civil case for lack
 2 of prosecution. Fed. R. Civ. P. 41(b); *see McKeever v. Block*, 932 F.2d 795, 797 (9th Cir. 1991)
 3 (failure to prosecute must be unreasonable in order to support dismissal); *Ash v. Cvetkov*, 739
 4 F.2d 493, 496 (9th Cir. 1984). The Court weighs five factors to determine if involuntary
 5 dismissal for lack of prosecution is proper. *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir.
 6 2002) (citing *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)). Specifically, the Court
 7 considers: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
 8 manage its docket; (3) the risk of prejudice to the defendant; (4) the public policy favoring
 9 disposition of cases on their merits; and (5) the availability of less drastic alternatives. *Id.*
 10 Dismissal is proper where at least four factors support dismissal or where at least three factors
 11 "strongly" support dismissal. *Beck v. Pike*, 2017 WL 530354, at *5 (W.D. Wash. Feb. 9, 2017)
 12 (quoting *Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998)).

13 Accordingly, Plaintiffs are ORDERED to show cause by **February 4, 2022**, why the
 14 Court should not dismiss the complaint in this matter for failure to prosecute. Absent a timely
 15 response to this Order, the Court will recommend this action be dismissed without prejudice.

16 Dated this 21st day of January, 2022.

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18 MICHELLE L. PETERSON
 19 United States Magistrate Judge
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